Judicial Recounts

This handbook sets out Elections Canada's current interpretation of the *Canada Elections Act* and is provided to help the public understand the Act. The views expressed in this handbook are not law and are not intended to replace the official text of the Act. How the Act applies to any particular case will depend on the individual circumstances of that case. Elections Canada reserves the right to reconsider any interpretations expressed in this handbook, either generally or in light of the actual circumstances of any case, and in accordance with continuing legislative and judicial developments.

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1. Introduction

1.1 Purpose of this handbook

This handbook is designed to provide a better understanding of judicial recounts carried out under the *Canada Elections Act* (hereinafter, the "Act"). This handbook is designed for reference purposes only, does not take precedence over legislation, and should be read in conjunction with the relevant provisions of the Act. The jurisprudence cited in this handbook is not exhaustive.

Judicial recounts are automatic where there is a small margin of difference between the votes cast for the winning candidate and those cast for the candidate who came in second place. Judicial recounts may also take place upon the application of an elector where there is evidence that election officers have incorrectly counted, tabulated or rejected ballots.

This handbook deals with judicial recounts and does not address contested elections (see Part 20 of the Act). Allegations that the elected candidate was not eligible to be a candidate or that there were irregularities, fraud or corrupt or illegal practices that affected the result of the election can be addressed only by an application to contest an election.

1.2 Scope of this handbook

This handbook explains the rights of individual electors and candidates to request a judicial recount and who may attend at the recount. This handbook also sets out who may act as a judge and the responsibilities of a judge tasked with conducting a judicial recount. Election officers may be required to provide evidence about the state of ballot boxes, individual ballots or other relevant information requested by the judge. Finally, this handbook discusses the legal principles relevant to establishing the validity of a ballot.

Relevant sections of the *Canada Elections Act* are indicated in square brackets after each related statement.[1]

[1] During an election period, if an emergency, an unusual or unforeseen circumstance or an error makes it necessary, the Chief Electoral Officer may adapt any part of the *Canada Elections Act* pursuant to section 17 of the Act. As such, any adaptation under section 17 of the Act for the election in question, and which is relevant to the counting of ballots, may need to be consulted.

1.3 Engaging counsel

An elector may wish to consult his or her own legal counsel before making an application for a judicial recount as such application is made under the rules of the competent court in the jurisdiction where the election occurred.

1.4 Questions about this handbook

Please direct any questions about this handbook to Elections Canada. We can be reached by telephone at 1 800 486-6563, by fax at (613) 990-2530, by e-mail through our Web site at www.elections.ca, or by mail at Elections Canada, 257 Slater Street, Ottawa, Ontario, K1A 0M6.

2. Judicial recount

2.1 What is a judicial recount?

After polling concludes, the ballots in each electoral district are counted by teams of deputy returning officers and poll clerks. A team formed of a deputy returning officer and a poll clerk counts special ballots received at the returning officer's office. Special ballot officers count special ballots received at Elections Canada headquarters in Ottawa.

When a judicial recount is held, this will entail a new tabulation of the votes cast for an electoral district, and will be presided over by a judge of a superior court in the electoral district where the election was held. [2(1), 299(1)]

A judicial recount must occur where the number of votes separating the candidate who received the most votes and any other candidate is less than one one-thousandth (1/1000) of the votes cast, or where it appears to a judge, upon application and on credible affidavit evidence, that there was an error in the tabulation of the vote by either the returning officer or the deputy returning officer.[2] [300(1), 301(2)]

Recounts will not occur when the results of the election are contested because of allegations of irregularities, fraud, illegal practices or corrupt practices as those allegations are dealt with through an application to contest an election. [524(1)]

Any alleged violations of the *Canada Elections Act* should be brought to the attention of the Commissioner of Canada Elections in writing, by mail to 257 Slater Street, Ottawa, Ontario, K1A 0M6 or by fax at (613) 990-4877. It is the duty of the Commissioner to ensure that the Act is complied with and enforced. [509]

2.2 Procedural issues

2.2.1 Automatic judicial recount in the case of a close result

A judicial recount must take place if the difference between the number of votes cast for the candidate with the most votes and the number of votes cast for any other candidate is less than one one-thousandth (1/1000) of the votes cast. The returning officer is obliged to make an application for a judicial recount within four days of the initial results being validated. [300(1)]

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[2] On the nature of a recount, see *Strang v. Orangeville (Town)*, [2003] O.J. No. 5214 (S.C.J.) (QL); *Sharma v. Silver*, [2003] M.J. No. 166 (Q.B.) (QL); *Weremchuk v. Jacobsen* (1986), 35 D.L.R. (4th) 278 (B.C.C.A.); *Lorje v. Karwacki*, [1999] S.J. No. 903 (C.A.) (QL).

The application must be made to a judge who sits in the electoral district where the results are validated. [2(1), 299(1)] In the event of an automatic judicial recount, the returning officer must give each candidate or his or her official agent written notice of the application for a recount. [300(2)] The *Notice of an application by the returning officer for a judicial recount* form set out in Appendix C (Form 1) of this handbook may be used for this purpose.

2.2.2 Recount by way of application

Subsection 301(1) of the Act allows an elector to apply for a judicial recount within four days of the returning officer issuing a certificate setting out the number of votes cast for each candidate, on the grounds that the returning officer or the deputy returning officer committed errors in tabulating the votes cast. [301(1), (2), 297]

An application for a judicial recount is made to a judge of a court in the province or territory in which the election occurred, as specified in the Act. [2(1), 299(1)] The Act does not set out the process of applying for a judicial recount, as this will vary from jurisdiction to jurisdiction. A detailed description of the application process can be found in the relevant rules of the applicable court.

Upon application by an elector, a judge may conduct a judicial recount if there is credible affidavit evidence that:

- the deputy returning officer incorrectly counted or rejected ballots
- the deputy returning officer made an incorrect statement of the vote, or
- the returning officer incorrectly added up the votes.[3] [301(2)]

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[3] Section 177 of the former *Canada Elections Act*, the predecessor to section 301 of the current *Canada Elections Act*, was judicially considered by the Manitoba's Court of Queen's Bench in *Gerrard v. Hilstrom*, [1997] M.J. No. 356 (Q.B.) (QL). In his reasons, Oliphant A.C.J.Q.B. noted that, in order for a recount to occur, there must be an error by either the returning officer or the deputy returning officer. Complaints about the integrity of the process should be dealt with other than through an application for judicial recount. See also *Re Canada Elections Act*, [1993] S.J. No. 615 (Q.B.) (QL).

Section 54 of the *Dominion Elections Act*, S.C. 1938, c. 46, an earlier antecedent to Part 14 of the *Canada Elections Act*, was judicially considered by the Saskatchewan District Court in the case *In re The Dominion Elections Act, 1938 & In Re McCullogh and Maple Creek Electoral District*, [1940] 2 W.W.R. 185. In that case, the court held that an unsuccessful application for a recount of votes made by one elector did not preclude a second elector from making a subsequent application on the same issue provided that it was within the time period prescribed in the Act.

2.2.3 Multiple recount requests

If a judge receives more than one recount application for more than one electoral district, the recounts shall be conducted in the order in which the judge receives the applications. [302]

2.2.4 Deadline to conduct recount

If the application for a recount is granted, the recount shall commence within four days after the judge receives the application. [300(3), 301(4)]

2.2.5 Summoning the returning officer to attend the recount

Upon setting the date for the recount, the judge will summon the returning officer to attend the recount, and the returning officer shall bring to the recount the ballots that were counted, relevant ballot boxes and the *Statements of the Vote* (reproduced in Appendix C (Form 3) of this handbook) that were used by the returning officer to complete the *Result of Voting* form. This form is set out in Appendix C (Form 6) of this handbook. [300(4), 301(4)] The returning officer may, as requested by the judge, perform other logistical functions in support of the recount.

2.2.6 Written notice of the recount

The judge will provide written notice to the candidates or their official agents of the time and place at which a recount requested by an elector will be held. [301(5)] A form of written notice that the judge may use is set out in Appendix C (Form 2) of this handbook.

While giving notice of the recount is not a statutory requirement in automatic recounts, nothing in the Act prohibits the judge from giving notice to candidates of the time and place fixed for an automatic recount.

2.2.7 Termination of the recount

Except in the case of an automatic recount, the judge may terminate the recount at any time at the written request of the person who applied for the recount. [307]

2.2.8 Computation of time

Deadlines in Part 14 of the *Canada Elections Act* should be interpreted by reference to the *Interpretation Act*, R.S.C. 1985, c. I-21.

Pursuant to section 26 of the *Interpretation Act*, where the time limited for the doing of a thing expires or falls on a holiday, the thing may be done on the day next following that is not a holiday.

Therefore, weekends and other holidays should be counted when calculating both the period within which an application for recount should be brought and the period within which a judge should start the recount following receipt of the application. However, should one of these periods expire on a holiday, that period would be extended to the end of the next day that is not a holiday.

2.3 Security for costs

In the event that an elector applies for a recount, the applicant must deposit with the clerk or prothonotary of the Court the sum of $250.00 as security for the costs of the candidate who obtained the largest number of votes. [301(3)]

Costs consequences are discussed at 4.7, below.

2.4 Judicial authority

2.4.1 Jurisdiction

The following judges are authorized to conduct recounts:

- in Ontario, a judge of the Superior Court of Justice
- in Quebec, a judge of the Superior Court of Quebec
- in Nova Scotia and British Columbia, a judge of the Supreme Court of the Province
- in New Brunswick, Manitoba, Saskatchewan and Alberta, a judge of the Court of Queen's Bench of the Province
- in Prince Edward Island and Newfoundland and Labrador, a judge of the Trial Division of the Supreme Court of the Province
- in Yukon, a judge of the Supreme Court of Yukon
- in the Northwest Territories, a judge of the Supreme Court of the Northwest Territories
- in Nunavut, a judge of the Nunavut Court of Justice

as long as the judge sits in the electoral district where the results are validated. [2(1), 299(1)]

2.4.2 Exercise of jurisdiction

A judge must be acting in a judicial capacity within the electoral district where the results are validated in order to conduct a recount of the votes cast for that electoral district. However, a judge may conduct a recount outside his or her judicial district.[4] [299(1), (2)]

2.4.3 Summoning witnesses

2.4.3.1 Missing ballot box or statement of the vote

A judge charged with conducting a recount has all the powers of a returning officer with regard to ordering the attendance and examination of witnesses including ordering that witnesses bring with them any necessary documents in order to arrive at the facts with respect to a missing ballot box or *Statement of the Vote*. [304(4), 296(2)(*b*)]

Any person who fails to appear after being summoned is guilty of an offence, and liable on summary conviction to a fine of not more than $1,000, or to imprisonment for a term of not more than three months, or to both. [304(4), 296(4), 493, 500(2)]

In the event that individuals are summoned to give evidence in these circumstances, the judge shall give notice to the candidates of the time fixed for the appearance of the individuals in question. [296(3), 304(4)]

2.4.3.2 Summoning a deputy returning officer or poll clerk

A judge conducting a judicial recount may summon any deputy returning officer or poll clerk as a witness and can require him or her to give evidence on oath and, for that purpose, has the same power that is vested in any court of record. [304(5)]

Subsection 304(2) of the Act prohibits the judge from referring to any other election documents besides ballots in the course of the judicial recount. Since the judge does not have access to the poll book, or any other election documents other than the ballots, the judge may require that the deputy returning officer explain why a ballot had been counted for a particular candidate, rejected or spoiled if the reason is not readily apparent from the documents at hand. [304(1), (2)]

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[4] For cases on the status or function of the judge on a recount, see *Gagnon v. Savard (Juge)* (1939), 77 C.S. 529 (C.S.Q.); *Re Courneys and the Village of Tweed*, [1949] O.R. 270 (C.A.); *Re Weston Local Option Bylaw* (1907), 9 O.W.R. 250, [1907] O.J. No. 262 (H. Ct.) (QL); *Huyghebaert v. McPherson*, [2000] S.J. No. 34, 2000 SKQB 37 (QL); *Re Reaume*, [1950] O.J. No. 337 (H. Ct.) (QL); *Re The Election of the Member of the Legislative Assembly for St. Patrick's Riding*, [1934] O.W.R. 492, [1934] O.J. No. 88 (H. Ct.) (QL); *Re Toronto Beaches Election; Ferguson v. Murphy*, [1943] O.R. 787 (S.C.); *Re Coquitlam (Electoral District) Election* (1976), 10 B.C.L.R. (2d) 172, [1976] B.C.J. No. 55 (C.A.) (QL).

2.4.4 Administrative assistance for the recount

Subject to the approval of the Chief Electoral Officer, a judge who is called upon to conduct a judicial recount may retain the services of support staff to assist in the performance of his or her duties under the Act. [304(6)]

Individuals retained by a judge to assist with a recount are remunerated for their attendance and services, as certified by the judge, on the basis set out in the *Federal Election Fees Tariff*. [542(1), *Tariff* Item 52]

2.4.5 Attendees at the recount

The Act permits the returning officer, each candidate and up to three representatives per candidate to attend the recount. [303]

Apart from what is authorized by the Act, the judge has the authority to permit any person to attend the recount. [303]

2.4.5.1 The returning officer

The returning officer for the electoral district is required to be present for any recount. [300(4), 301(6)] In addition to the tasks of the returning officer during the recount that are explicitly set out in the Act, including to be present throughout the recount and to bring all required election materials to the recount, the returning officer may perform other logistical functions in support of the recount as requested by the judge. [300(4), 301(4), (6)]

2.4.5.2 The candidate and his or her representatives

Each candidate and up to three of his or her representatives may attend at a recount. If a candidate is not present, and is not represented at the recount, no more than three electors are entitled to attend on his or her behalf. [303]

Every representative of a candidate must have written authority from the candidate or his or her official agent in order to act in that capacity. [135(3)] A representative with written authorization is entitled to represent the candidate in preference to any elector who might otherwise claim that right. [135(3), 303(1)]

2.4.5.3 Other individuals

No other person may attend, unless they are granted permission to attend by the judge. [303]

2.5 Preliminary recount logistics

2.5.1 Application stage

A recount is triggered by an application made to a competent court. [300(1), 301(1)]

If the application for a recount is granted, the recount shall commence within four days after the judge receives the application. [300(3), 301(4)]

2.5.2 Choosing the location of the recount

The Act does not specify the location of the recount. The recount may be held at a courthouse, at the returning officer's office, or at another location where the security of the ballots and the efficiency of the recount can be ensured.

2.5.3 Notifying candidates of the recount

2.5.3.1 Automatic recounts

While giving notice of the recount is not a statutory requirement in automatic recounts, nothing in the Act prohibits the judge from giving notice to candidates of the time and place fixed for an automatic recount. A form of written notice that the judge may use is set out in Appendix C (Form 2) of this handbook.

2.5.3.2 Recounts requested by an elector

The judge must notify each candidate or his or her official agent in writing of the time and place fixed for the recount. [301(5)] A form of written notice that the judge may use is set out in Appendix C (Form 2) of this handbook.

The judge may decide how this notice shall be served, either personally, or substitutionally by mail or in any other manner. [301(5)]

2.5.4 Preliminary meeting with parties to discuss procedural matters

The judge governs the conduct of the recount. At his or her discretion, the judge may wish to chair a preliminary meeting in advance of the start of the recount, with the returning officer, the candidates and their legal representatives in attendance, to discuss procedural and logistics matters.

2.5.5 Logistics involved in moving the ballots

If the recount is held at a location other than where the returning officer has stored the ballot boxes, the ballot boxes will need to be moved to that location. The judge will need to make arrangements in conjunction with the returning officer for the

transportation of the ballot boxes, and the security of the ballot boxes while in transit and while at the location of the recount.

2.6 The ballot box and its contents

2.6.1 Custody of the ballot boxes

The returning officer shall attend at the recount and provide the judge with the ballot boxes. [300(4), 301(4)]

During the recount, the judge is to take all necessary precautions to ensure the security of the ballots and other documents. [306(2)]

2.6.2 Content of the ballot boxes relevant to the recount

The ballot boxes contain the ballots cast for each candidate, the unused ballots, the spoiled ballots, the rejected ballots, the *Statement of the Vote*, or the ballots cast and the *Statement of the Vote* made in accordance with the Special Voting Rules.[5] [300(4), 301(4)]

A ballot box also contains the envelopes received under the Special Voting Rules which were set aside, unopened by a deputy returning officer.

2.6.3 Ballots

Ballots come in two forms.

2.6.3.1 Regular ballots

The ballot used at polling stations and advanced polling stations sets out the names of the candidates in an electoral district in the form set out in Form 3 of Schedule 1 to the Act. [116(1)] This form is reproduced in Appendix C (Form 10) of this handbook.

2.6.3.2 Special ballots

Special ballots are used under the Special Voting Rules for votes cast by Canadian Forces electors, electors temporarily resident outside of Canada, incarcerated electors, and electors resident in Canada who choose to vote by special ballot. [177–282]

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[5] The Ontario High Court in *Re Bevilacqua* (1988), 56 D.L.R. (4th) 698 (Ont.H.Ct.) held that the envelopes do not have to be properly sealed in order for the ballots therein to be counted during a judicial recount, and that holding otherwise would deprive eligible electors of their franchise despite their lawful participation in the election. Voters should not be punished because of the errors of the election officials.

A special ballot simply provides a blank space for the elector to write in the name of a candidate, in the form set out in Form 4 of Schedule 1 to the Act. [186] The special ballot form is reproduced in Appendix C (Form 11) of this handbook.

There may be persons who vote under the Special Voting Rules using a regular ballot rather than a special ballot. If an elector applies under the Special Voting Rules to vote in person at the office of the returning officer after regular ballots for that electoral district have been printed, that elector shall be given a regular ballot, and shall mark the ballot accordingly. [241]

2.6.4 Other election material

The ballot box should also contain the poll book, the seal control sheet, and other election material.

If a recount of all the ballots is taking place, the judge can refer only to the used and counted, unused, rejected and spoiled ballots. The judge shall not open any envelopes that appear to contain other documents or refer to any other election documents. [304(2)]

2.7 Conduct of the recount

The Act provides that a judge shall conduct the recount in one of the following manners:

- adding the number of votes reported in the *Statements of the Vote*
- counting the valid ballots, or
- counting all of the ballots returned by the deputy returning officers and by the Chief Electoral Officer, including the envelopes set aside unopened under the Special Voting Rules. [304(1)]

2.7.1 Adding the number of votes reported in the statements of the vote

A *Statement of the Vote* is completed for each polling station within an electoral district, setting out how many votes were cast for each candidate, and how many votes were rejected, spoiled and unused. [287(1)] *Statements of the Vote* are also completed for special ballots counted at the offices of returning officers. [287(1)] An example of the *Statement of the Vote* form is reproduced in Appendix C (Form 3) of this handbook.

If the judge decides to add the number of votes reported in the *Statements of the Vote*, the judge will not count each ballot. Instead, the recount is completed by adding the number of votes recorded in the *Statements of the Vote*. [304(1)] This type of recount may take place where the deputy returning officer during the count on polling day or the returning officer during the validation has made an arithmetic error in adding the number of votes in the *Statements of the Vote*.

2.7.2 Counting ballots

If the judge conducts the recount by counting the valid ballots or by counting all of the ballots returned by the deputy returning officers and by the Chief Electoral Officer, including the envelopes set aside unopened under the Special Voting Rules, each ballot is counted again.

In past recounts, judges chose either to count all the ballots themselves, or to supervise teams of persons counting all the ballots.

The judge corrects, if necessary, each *Statement of the Vote*. [304(3)(b)]

2.7.2.1 Judge counts all the ballots personally

Where a judge is proceeding with the judicial recount by counting the ballots personally, subsection 304(3) of the Act applies.

Subsection 304(3) of the Act requires the judge to count the ballots in the manner prescribed for a deputy returning officer or a special ballot officer.

The judge opens the ballot boxes and empties their contents onto a table. [283] The judge may also review the special ballots counted by deputy returning officers and special ballot officers. [300(4)(*c*), 301(4), 304(2)] Since the ballots have already been counted once, the ballots supplied to the judge will include the ballots cast for each candidate, the spoiled ballots, the unused ballots, and the rejected ballots. [288]

In relation to regular ballots, the judge shall examine each ballot, show the ballot to each person who is present, and ask that a note be made on the tally sheet below the name of the candidate for whom the vote was cast for the purpose of arriving at the total number of votes cast for each candidate. [283(3), 304(3)]

In relation to special ballots, the judge shall examine each ballot, call out the name of the candidate for whom it has been marked, and ask that a note be made on the tally sheet below the name of the candidate for whom the vote was cast, for the purpose of arriving at the total number of votes cast for each candidate. The special ballot papers should be placed in separate piles for each candidate. A tally sheet that may be used at a judicial recount is reproduced in Appendix C (Form 4) of this handbook. [278(3), 304(3)]

In relation to special ballots, the judge can also review any outer envelopes that were set aside unopened. [267, 277, 304(3)] This is discussed further at 3.2, below.

The procedure followed in the initial count of regular ballots and special ballots is set out in Appendix B of this handbook.

2.7.2.2 Judge supervises the counting of the ballots

Where judges have chosen to supervise teams that count the ballots, different procedures have been established depending on how the judge wished to proceed.

2.7.2.3 Restriction on viewing other election documents

In conducting the recount, the judge may open only sealed envelopes that contain the counted, unused, rejected and spoiled ballots. During the recount, the judge may not refer to any of the other election documents, nor may he or she open any other envelope that appears to contain other documents. [304(2)]

The envelope for spoiled special ballot papers should also contain envelopes set aside unopened under the Special Voting Rules. These could be examined, as described below.

2.8 Requirement for the recount to proceed continuously

As far as it is practicable, the judge shall proceed continuously with the recount, except for necessary breaks, between the hours of 9:00 a.m. and 6:00 p.m. The recount will take place between those hours only, unless the judge orders otherwise. The count will continue until it is completed. [305]

There is no provision in the *Canada Elections Act*, or in the *Interpretation Act*, that suggests that the count should be suspended for weekends or holidays.

2.9 Security of the ballots during a break in the count

During the overnight break in the count between 6:00 p.m. and 9:00 a.m., and during other necessary breaks during the day, the judge, or any other person who has possession of the ballots and other election documents, shall keep them sealed in parcels, and the judge shall sign the seal. Any other person in attendance may also sign the seal. [306(1)]

The judge shall personally supervise the parcelling and sealing of ballots and documents at a recount and take all the necessary precautions for their security. [306(2)]

3. Accepting and rejecting ballots[6]

3.1 Examining normal ballots and special ballots

3.1.1 Grounds upon which to reject ballots

Upon examination, the judge should reject a ballot that:

- ***was not supplied to the elector by the deputy returning officer***
  - The deputy returning officer should have initialled all regular ballots. If at the initial count the deputy returning officer discovers a ballot that is not initialled, and the deputy returning officer is satisfied that he or she issued the ballot, he or she is required to initial it. Therefore, all regular ballots counted as valid should have been initialled. [285]
  - If a ballot that has not been initialled by the deputy returning officer is discovered during the recount:

    The judge may decide that an un-initialled ballot included with the ballots counted by the deputy returning officer was not initialled because the deputy returning officer made an error by failing to initial the ballot at the original count. [285, 304(3)]

    Alternatively, a judge may decide that an un-initialled ballot was included with the rejected ballots because the deputy returning officer did not believe that he or she issued the ballot. [284(1)(*a*), 285, 304(3)]

    The judge may summon the deputy returning officer or poll clerk to give evidence under oath. [304(5)]
- ***in the case where a special ballot was not supplied by the Chief Electoral Officer*** [269(1)(*a*), 304(3)]
- ***in the case where a special ballot cast at the office of the returning officer was not supplied for the election*** [279(1)(*a*), 304(3)]

[6] The Supreme Court of Canada discussed the right to vote enshrined in section 3 of the *Charter*, in the context of the 1992 referendum, in *Haig v. Canada*, [1993] 2 S.C.R. 995.

- ***has been marked in a way that identifies the elector***
  - If the judge, in the course of examining the ballots, discovers a ballot or a special ballot that was marked in such a way that it could identify the elector, the judge shall reject the ballot.[7] [269(1)(*e*), 279(1)(*e*), 284(1)(*e*), 304(3)]
- ***has been marked in such a way that more than one candidate has been selected by the elector***
  - The judge shall reject a ballot that was marked in more than one circle to the right of the candidates' names.[8] [284(1)(*d*), 304(3)]

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[7] The Ontario Court of Appeal considered municipal electoral legislation with similar statutory language to that of the *Canada Elections Act*, and held that the elector must be identifiable on a balance of probabilities in order for this to be a valid reason for rejecting a ballot (*O'Donohue v. Silva* (1995), 27 O.R. (3d) 162 (C.A.), aff'g (1995), 28 M.P.L.R. (2d) 9 (Gen.Div.)). However, the Alberta Court of Appeal in *Lukaszuk v. Kibermanis*, [2005] A.J. No. 167 (C.A.) (QL) characterizes Alberta's approach to this question as "less rigid" than Ontario: under Alberta legislation, the mark must enable the voter to be "readily identified," which means that the voter must "on an objective basis, be easily identifiable on the face of the ballot by those reading the ballot without reference to external sources of information, including forensic testing or handwriting analysis" (at para. 33).

The Ontario Court of Appeal in *O'Donohue* referred to the decision of *Lucas-Astley v. Barrie*, [1995] O.J. No. 255 (Gen.Div.) (QL), which held that the intention of the voter must be considered when examining the mark made on the ballot. A voter's intention to identify himself or herself remains part of the overall consideration as to whether the ballot should be rejected. It could not have been the intention of the legislature to provide that any mark, tear or writing will vitiate a ballot, however inadvertent or accidental that mark, tear or writing may be.

The Newfoundland Supreme Court observed that the size of the community is one factor to be taken into consideration when determining whether a distinctive mark on a ballot could reasonably cause the elector to be identified. (*Re Ford*, [1993] N.J. No. 203 (S.C.T.D.) (QL)).

For other cases on whether a mark may identify an elector, see *Re Fitzgerald*, [1989] N.J. No. 268 (S.C.T.D.) (QL); and *Re Hewlett*, below.

[8] The Newfoundland Supreme Court held that where an elector placed a mark in two candidates' boxes, but it was obvious that the elector intended to vote for one of the candidates only, this ballot is valid and should be counted. The Court considered three examples. First, an elector had marked an "X" for a candidate, then obliterated it and voted for a second candidate. Second, an elector made a mark in the box for one candidate, but stopped after making one diagonal line, and subsequently marked an "X" for another candidate. In these two cases, the Court found the ballots valid. However, in the third example, one "X" was found in one candidate's box, and two Xs were found in another. The ballot was rejected because it was impossible to determine the intention of the voter. (*Re Hewlett*, [1996] N.J. No. 125).

The Ontario Court (General Division) in *O'Donohue* held that initialling a change of vote by scratching out one candidate, voting for another, and initialling the change does not constitute an intention by the voter to identify himself. On appeal, the Ontario Court of Appeal found that "in deciding whether a given mark amounts to the "casting" of a vote, the voter's intention, as manifested by the nature of the mark is a relevant consideration to be taken into account in determining whether the vote must be rejected [because the voter has placed marks next to the names of more than one candidate.]" As it was clear that the voter meant to scratch out one mark and to cast a vote for only one candidate, this ballot was acceptable. (*O'Donohue v. Silva* (1995), 27 O.R. (3d) 162 (C.A.), aff'g (1995), 28 M.P.L.R. (2d) 9 (Gen.Div.)).

- The judge shall reject a special ballot that is marked with the names of more than one candidate. [269(1)(*d*), 279(1)(*d*), 304(3)]

- ***has been marked for someone who is not a candidate***

  - Any votes given for a person other than a candidate are void and should therefore be rejected. [76, 269(1)(*c*), 279(1)(*c*), 284(1)(*c*), 304(3)]

- ***has not been marked in a circle to the right of the candidates' names, or in the case of a special ballot, has not been marked***

  - The judge shall reject a ballot where the voter did not make a mark in one of the circles to the right of the candidates' names. [284(1)(*b*), 304(3)]

  - The judge shall reject a special ballot where the voter did not make a mark. [269(1)(*b*), 279(1)(*b*), 304(3)]

  - There is divided judicial opinion whether a ballot should be rejected where the elector has not properly marked the ballot.[9]

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[9] The Ontario Court of Appeal has strictly interpreted the requirement that the voter place a mark on the ballot nowhere else than in the circle or circular space to the right of the candidates' names. Where a mark is not placed correctly, even where "it is abundantly clear for whom the electors intended to vote," the ballot must be rejected. (*O'Donohue v. Silva* (1995), 27 O.R. (3d) 162 (C.A.), aff'g (1995), 28 M.P.L.R. (2d) 9 (Gen.Div.)).

The Northwest Territories Court of Appeal held, in *Re Firth and Nickerson* (1980), 111 D.L.R. (3d) 525, that the deputy returning officer must reject ballots not marked in the circles to the right of the candidates' names. The Court stated that Parliament had clearly expressed its will that the deputy returning officer "shall" reject ballots improperly marked in this way.

The Ontario Divisional Court reviewed the provisions of the *Ontario Municipal Elections Act* with respect to ballots marked incorrectly. The Court noted the absence of any provision compelling the rejection of ballots not marked as directed, and held that the correct marking of the ballot set out in the law must be taken as a direction only. Where the intention of the voter is clear, that intention is paramount and should not be frustrated. Marks made outside of the space provided, but in a manner that clearly indicated the voter's intent, must be counted. This case can be distinguished from *Re Firth* because, unlike the *Canada Elections Act*, the Ontario statute lacked a provision requiring a ballot to be rejected if not marked as required. *(Re Dingley and McLean* (1973), 34 D.L.R. (3d) 38).

However, the *Ontario Municipal Elections Act* was reconsidered on this point by the Ontario Court (Provincial Division) in *Devine v. Scarborough (City)*, [1995] O.J. No. 511 (QL). In the period between *Dingley* and *Devine*, the *Ontario Municipal Elections Act* had been amended so that the deputy returning officer was to "reject any vote that is not marked within the circle or circular space to the right of the name of a candidate." The Court held that the intent of the legislation was that only votes marked within the spaces provided to the right of the candidates' names were valid votes. A vote marked outside of the designated voting space was found not to be a valid vote.

Circling the name on the ballot has been held to be a valid vote by the Newfoundland Supreme Court, Trial Division in *Re: Ford*, [1993] N.J. No. 203 (QL). The circle clearly indicated the voter's intent and could not serve as a way to identify the voter in question. However, the *Newfoundland Elections Act* expressly provided that ballots could be marked outside of the circle to the right of the candidate's name.

In *Re: Controverted Elections Act (N.S.)*, [1990] N.S.J. No. 33 (QL), some voters who cast their votes at a special poll marked their ballots outside of the circle to the right of the candidate's name. Despite clear and

3.1.2 Insufficient grounds to reject ballots

A ballot should not be rejected by a judge simply because it was:

- ***marked by the deputy returning officer in a manner other than as set out in the* Act** [284(2)]
  - Ballots that were objected to during the initial count have been marked by the deputy returning officer with a number that coincides with a number listed in the poll book. [286(1)] The judge may not examine the poll book. [304(2)]

    The judge may summon the deputy returning officer to give evidence under oath. [304(5)]
- ***marked with a symbol other than a cross***
  - An elector may mark a ballot with a cross or other mark in the circular space opposite the name of the candidate of his or her choice, provided that the mark cannot be used to identify the elector. [151(1)(*b*), 279(1)(*e*)]
- ***marked with a writing instrument other than a black lead pencil*** [304(3), DRO Manual]
- ***marked where the mark extends outside the circle to the right of the candidate's name*** [304(3), DRO Manual]
- ***a ballot where the counterfoil was not removed by the deputy returning officer***[10] [284(2), 304(3)]
  - The deputy returning officer is required to remove a counterfoil during the counting and examination of the ballots if the deputy returning officer did not remove the counterfoil initially. [284(3)]
- ***marked in a way that the circle is completely filled***[11] [304(3), DRO Manual], or

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unambiguous language in the provincial statute, the Nova Scotia Supreme Court, Trial Division held that as the electors' voting intentions were clear, and as the form of ballot used at the special poll should have been the same as that used for an ordinary poll, the votes of these electors should be counted.

In *Massana c. Lucas*, [1999] J.Q. No. 6020 (QL), the Quebec Superior Court, Civil Division held that the fact that the ballots did not conform to the regulations did not cause any prejudice, as voters for different candidates failed to mark their ballots correctly. As long as the clear intention of the voter was shown, the court counted the ballot. This decision disregarded the wording of Quebec's municipal electoral legislation, which required that ballots marked incorrectly must be rejected.

[10] For a discussion of the validity of ballots where counterfoils were not removed, in the context of Quebec's provincial election legislation, see *Lavalée (Re)*, [1994] A.Q. No. 819 (C.A.) (QL).

[11] In interpreting Ontario's *Municipal Elections Act, 1972*, the Ontario Divisional Court held that, failing clear legislative intent to the contrary, the intention of the voter is paramount and should not be frustrated because a box on the ballot was shaded in rather than marked with a cross. (*Re Dingley and McLean* (1973), 34 D.L.R. (3d) 38).

- ***in the case of a special ballot, if the elector wrote the name of a candidate incorrectly, or if the elector wrote the candidate's political affiliation in addition to the name of the candidate, if the ballot clearly indicates the elector's intent*** [269(2), 279(2), 279(3), 304(3)]

3.2 Examining outer envelopes under the Special Voting Rules

3.2.1 Examination of outer envelopes at a recount

Where a judge decides to conduct the recount by counting all of the ballots returned by deputy returning officers or by the Chief Electoral Officer, the judge's recount may also include a review of the envelopes set aside unopened by the special ballot officers or the deputy returning officers under the Special Voting Rules. [304(3)]

In deciding whether to accept envelopes previously set aside, a judge must apply the same requirements as those that apply to the special ballot officers and the deputy returning officers under the Special Voting Rules. [304(3)(*a*)]

A judge shall set aside, unopened, an outer envelope:

- ***that has not been signed by the elector***
  - This ground does not apply if the elector was assisted in marking the ballot paper by an election officer and there is a note to that effect on the back of the outer envelope. [267(1)(*b*), 277(1)(*b*)]
- ***where the correct electoral district of the elector cannot be ascertained*** [267(1)(*c*)]
- ***that either has been received by the returning officer after the close of polls in that electoral district or has been received in Ottawa by the special voting rules administrator after 6:00 p.m. on polling day*** [277(1)(*d*), 267(1)(*d*)]
- ***of an elector who has received more than one ballot from a returning officer*** [277(1)(c)]

3.2.2 Discretion to examine outer envelopes at a recount

While a judge at a recount of the ballots has the power to open the envelopes containing outer envelopes that have been set aside unopened, he or she is not under any obligation to do so or to examine the outer envelopes contained therein. [304(2)]

3.3 Examining spoiled ballots

3.3.1 What is a spoiled ballot?

A spoiled ballot is one that has been handled by an elector in such a manner that it is ruined and cannot be used, or one that is found by the deputy returning officer to be soiled or improperly printed. The spoiled ballot is not placed in the ballot box, but

rather is marked as spoiled by the deputy returning officer and set aside. The elector is given another ballot. [2(1), 152]

3.3.2 Discretion to examine spoiled ballots at a recount

While a judge at a recount of the ballots has the power to open the envelopes containing spoiled ballots, he or she is not under any obligation to do so or to examine the spoiled ballots contained therein. [304(2)]

3.3.3 Spoiled ballots should not be counted at a recount

The provisions of the Act surrounding spoiled ballots permits a person who has spoiled his ballot to receive no more than one other ballot. [152(2)]

After the elector returns a spoiled ballot to the deputy returning officer, the deputy returning officer marks the ballot as spoiled and sets it aside. [152(1)]

At the close of polls, spoiled ballots are not counted by the deputy returning officer towards the votes received by any candidate. [283(3)]

There is a presumption that spoiled ballots will not be counted at a judicial recount because if a spoiled ballot were subsequently accepted as a valid ballot at a recount, the probable result would be that two ballots cast by a single elector would both be counted as valid votes.

3.4 Examining unused ballots

While a judge at a recount of the ballots has the power to open the envelopes containing unused ballots, he or she is not under any obligation to do so or to examine the unused ballots contained therein. [304(2)]

3.5 Tallying ballots

The sum of the valid ballots cast and the rejected ballots for a polling station should equal the number of electors who voted at that polling station.

The sum of the numbers of valid ballots cast, the rejected ballots, the spoiled ballots and the unused ballots for a polling station should equal the number of ballots received from the returning officer for that polling station.

4. The completed recount

4.1 Preserving the security of the ballots

During the course of the recount, and at the end of the judicial recount, the judge shall ensure the security of the ballots by sealing them in separate envelopes for each polling station. [308(*a*)]

4.2 Completing the *Certificate of Judge on Judicial Recount*

At the conclusion of a recount, the judge shall, without delay, prepare a certificate in the prescribed form that sets out the number of votes cast for each candidate and deliver the original of the certificate to the returning officer. [308(*a*), (*b*)] The judge shall deliver a copy of the certificate to each candidate. [308(*b*)]

This certificate is printed on every *Result of Voting* form, to be completed in the case of a judicial recount. A copy of the *Result of Voting* form is reproduced in Appendix C (Form 6) of this handbook.

4.3 Modifying the *Result of Voting* form

In the event that the recount requires that the previously recorded results be altered, the judge shall manually modify the results of the *Result of Voting* form, sign the *Certificate of Judge on Judicial Recount* printed on the *Result of Voting* form, and provide the original to the returning officer and a copy of it to each candidate. [308]

4.4 Modifying the *Statement of the Vote* form

In the event that the recount results in a result different than that set out in a *Statement of the Vote* form, the judge shall modify the results on the appropriate *Statement of the Vote* form and initial each correction. [304(3)(*b*)]

The modified *Statement of the Vote* forms should be delivered to the returning officer.

4.5 Completing and certifying timesheets

The returning officer and assistants to the judge shall be paid pursuant to the *Federal Election Fees Tariff* an amount per hour for attending a recount, as certified by the judge who conducts the recount. [542(1), *Tariff* Item 2(2) and 52]

The returning officer should complete a time sheet, and ensure that each assistant to the judge has completed a time sheet, and that the judge has certified all the time sheets. The *Time Sheet (Recount)* form should be used for this purpose. This form is reproduced in Appendix C (Form 8) of this handbook.

4.6 Completing the *Return of the Writ*

Without delay after receiving the *Result of Voting* form (with the signed *Certificate of Judge on Judicial Recount*) from the judge following the completion of a recount, the returning officer shall declare elected the candidate who obtained the largest number of votes by completing the *Return of the Writ* in the prescribed form on the back of the writ of election. [313(1)]

The *Return of the Writ* is reproduced in Appendix C (Form 7) of this handbook.

If there is an equality of votes between the candidates with the largest number of votes, the returning officer shall indicate that fact on the *Return of the Writ*. [313(2)]

4.7 Costs

4.7.1 Judicial authority

Subject to the statutory provisions referred to below, the judge has the authority to make an order as to costs.

4.7.2 Security for costs

The Act does not set out any costs provisions for automatic recounts.

Where an elector has applied for a recount, the applicant must pay into court the sum of $250 as security for the costs of the candidate who received the largest number of votes. [301(3)]

The money paid into the court for security of costs under subsection 301(3) shall, so far as is necessary, be paid out to the candidate in whose favour costs are awarded. If the deposit is insufficient to cover the costs, the party in whose favour the costs are awarded has a right to sue the litigant who was subject to an order for costs for the balance. [309(2)]

4.7.3 Statutory costs provisions

If a judicial recount requested by an elector does not alter the result so as to affect the return, the judge shall:

- order the costs of the candidate for whom the largest number of votes have been cast to be paid by the person who applied for the recount
- tax those costs, following as closely as possible the tariff of costs allowed with respect to proceedings in the court in which the judge ordinarily presides [309(1)]

4.8 Reimbursement of candidates' expenses

4.8.1 Application

A candidate may make an application to the Chief Electoral Officer for a reimbursement of his or her costs in respect of the recount. [310(1)]

A request must set out the amount and nature of the costs and whether they were actually and reasonably incurred. [310(1)] The *Application for Reimbursement of Costs at a Judicial Recount* should be used for this purpose. This form is set out in Appendix C (Form 9) of this handbook.

In addition, evidence of having incurred the expense in question (such as receipts) should be provided.

4.8.2 Amount of reimbursement

Upon receipt of such an application, the Chief Electoral Officer shall determine the costs and shall make a request for reimbursement to the Receiver General for Canada for that amount, up to a maximum of $500 per day or part of a day during which the judge conducted the recount. [310(2)]

4.8.3 Deemed electoral campaign expense

Any costs incurred for a judicial recount that have not been reimbursed by the Receiver General are considered an electoral campaign expense of a candidate. [406*(c)*]

Appendices

Appendix A – Part 14 of the *Canada Elections Act*[12]

Sections 299–312

PART 14

JUDICIAL RECOUNT

Interpretation

Definition of "judge"

299. (1) In this Part, "judge" means a judge who sits in the electoral district where the results are validated.

Powers of judge

(2) A judge who is authorized by sections 300 to 309 to act may act, to the extent authorized, within or outside his or her judicial district.

Recount Procedure

Request by returning officer for recount

300. (1) If the difference between the number of votes cast for the candidate with the most votes and the number cast for any other candidate is less than 1/1000 of the votes cast, the returning officer shall make a request to a judge for a recount within four days after the results are validated.

Notice to candidates

(2) The returning officer shall notify each candidate or his or her official agent in writing of the request for a recount.

Recount automatic

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[12] Note to the reader: In interpreting or applying the *Canada Elections Act*, reference must be made to the official texts published by the Queen's Printer for Canada.
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(3) The judge shall fix the date for the recount to be conducted within four days after he or she receives the request.

Documents to be supplied

(4) The returning officer shall attend the recount and shall bring all relevant election materials including

(*a*) the ballot boxes;

(*b*) the statements of the vote used to validate the results; and

(*c*) all ballots cast and statements of the vote made in accordance with Part 11.

Application for recount

301. (1) An elector may, within four days after the date on which a returning officer issues a certificate under section 297, apply to a judge for a recount.

Grounds for recount

(2) The judge shall fix a date for a recount if it appears, on the affidavit of a credible witness, that

(*a*) a deputy returning officer has incorrectly counted or rejected any ballots, or has written an incorrect number on the statement of the vote for the votes cast for a candidate; or

(*b*) the returning officer has incorrectly added up the results set out in the statements of the vote.

Deposit

(3) The applicant shall deposit with the clerk or prothonotary of the court the sum of $250 as security for the costs of the candidate who obtained the largest number of votes.

Date for recount and summons

(4) The date fixed for the recount shall be within four days after the judge receives the application. The judge shall summon the returning officer to attend and to bring the relevant ballot boxes and statements of the vote together with the ballots that were counted, and the statements that were completed, under Part 11.

Notice to candidates

(5) The judge shall notify each candidate or his or her official agent in writing of the time and place fixed for the recount. The judge may decide that service of the notice will be substitutional, by mail or posting or in any other manner.

Returning officer required to attend

(6) A returning officer to whom a summons is directed under subsection (4) shall obey it and shall be present throughout the recount.

More than one application

302. If a judge receives more than one application for a recount for more than one electoral district, the recounts shall be conducted in the order in which the judge receives the applications.

Right of candidate to attend

303. (1) Each candidate and up to three of his or her representatives may attend at a recount. If a candidate is not present and is not represented at the recount, no more than three electors are entitled to attend on the candidate's behalf.

No other person may attend

(2) Except with the permission of the judge, no person other than those described in subsection (1) and the returning officer may be present at the recount.

Recount procedure

304. (1) The judge shall conduct the recount by adding the number of votes reported in the statements of the vote or by counting the valid ballots or all of the ballots returned by the deputy returning officers or the Chief Electoral Officer.

Documents that may be examined

(2) If a recount of all of the ballots returned is required, the judge may open the sealed envelopes that contain the used and counted, unused, rejected and spoiled ballots. The judge shall not open any envelopes that appear to contain other documents or refer to any other election documents.

Steps to be taken by judge

(3) At a recount, the judge shall

(*a*) count the ballots in the manner prescribed for a deputy returning officer or a special ballot officer;

(*b*) verify or correct, if necessary, each statement of the vote; and

(*c*) review the decision of the returning officer with respect to the number of votes cast for a candidate, in the case of a missing or destroyed ballot box or statement of the vote.

Powers of judge

(4) For the purpose of arriving at the facts with respect to a missing ballot box or statement of the vote, the judge has all the powers of a returning officer with regard to the attendance and examination of witnesses who, in case of non-attendance, are subject to the same consequences as in the case of refusal or neglect to attend on the summons of a returning officer.

Additional powers of judge

(5) For the purpose of conducting a recount, a judge has the power to summon any deputy returning officer or poll clerk as a witness and to require him or her to give evidence on oath and, for that purpose, has the same power that is vested in any court of record.

Clerical assistants

(6) Subject to the approval of the Chief Electoral Officer, a judge may retain the services of support staff to assist in the performance of his or her duties under this Part.

Proceedings to be continuous

305. The judge shall, as far as practicable, proceed continuously with a recount, except for necessary breaks and, unless the judge orders otherwise, between 6:00 p.m. and 9:00 a.m.

Security of documents

306. (1) During a break described in section 305, the judge or any other person who has possession of ballots and other election documents shall keep them sealed in parcels, and the seal shall be signed by the judge and may be signed by any other person in attendance.

Supervision of sealing

(2) The judge shall personally supervise the parcelling and sealing of ballots and documents at a recount and take all necessary precautions for their security.

Judge may terminate recount

307. Except in a case referred to in section 300, a judge may at any time terminate a recount on request in writing by the person who applied for the recount.

Procedure at conclusion of recount

308. At the conclusion of a recount, the judge shall

(*a*) seal the ballots in a separate envelope for each polling station and without delay prepare a certificate in the prescribed form that sets out the number of votes cast for each candidate; and

(*b*) deliver the original of the certificate to the returning officer and a copy of it to each candidate.

Costs

309. (1) If a recount does not alter the result of the vote so as to affect the return, the judge shall

(*a*) order the costs of the candidate for whom the largest number of votes have been cast to be paid by the person who applied for the recount; and

(*b*) tax those costs, following as closely as possible the tariff of costs allowed with respect to proceedings in the court in which the judge ordinarily presides.

Disposal of deposit and right of action for balance

(2) The money deposited as security for costs shall, as far as is necessary, be paid out to the candidate in whose favour costs are awarded under subsection (1) and, if the deposit is insufficient to cover the costs, the party in whose favour the costs are awarded has their action for the balance.

Application for reimbursement of costs

310. (1) After a recount, a candidate may make an application to the Chief Electoral Officer for reimbursement of his or her costs in respect of the recount, setting out the amount and nature of the costs and whether they were actually and reasonably incurred.

Chief Electoral Officer determines costs

(2) On receipt of an application under subsection (1), the Chief Electoral Officer shall determine the costs, and shall make a request for reimbursement to the Receiver General, up to a maximum of $500 for each day or part of a day during which the judge conducted the recount.

Payment from Consolidated Revenue Fund

(3) The Receiver General, on receipt of a request for reimbursement from the Chief Electoral Officer, shall pay to the candidate the amount requested from the Consolidated Revenue Fund.

Failure of Judge to Conduct Recount

Failure of judge to act

311. (1) If a judge does not comply with the provisions of sections 300 to 309, an aggrieved party may, within eight days after the failure to comply, make application for an order under subsection (3)

(*a*) in the Province of Ontario, to a judge of the Superior Court of Justice;

(*b*) in the Province of Quebec, New Brunswick or Alberta, Yukon, the Northwest Territories or Nunavut, to a judge of the Court of Appeal of the Province or Territory;

(*c*) in the Province of Nova Scotia or British Columbia, to a judge of the Supreme Court of the Province;

(*d*) in the Province of Manitoba or Saskatchewan, to a judge of the Court of Queen's Bench for the Province; and

(*e*) in the Province of Prince Edward Island or Newfoundland, to a judge of the trial division of the Supreme Court of the Province.

Application on affidavit

(2) An application under subsection (1) may be made on affidavit, which need not be entitled in any matter or cause, that sets out the facts relating to the failure to comply.

Order of judge

(3) The judge to whom an application is made under subsection (1) shall, if it appears that there was a failure to comply, make an order

(*a*) fixing the time, within the following eight days, and place to hear the application;

(*b*) directing the attendance of all parties interested at that time and place; and

(*c*) giving directions for the service of the order, and of any affidavit on which it was granted, on the judge alleged to have failed to comply and on any other interested party.

Affidavits may be filed in reply

(4) The judge complained of and any interested party may file in the office of the clerk, registrar or prothonotary of the court of the judge to whom the application is made affidavits in reply to those filed by the applicant and shall provide the applicant with copies of them on demand.

S.C. 2002, c. 7, s. 93.

Order of court after hearing

312. (1) After hearing the judge complained of and any other parties, the judge to whom the application was made or another judge of the same court

(*a*) shall make an order dismissing the application or ordering the judge in default to comply with the requirements of this Act in respect of the recount; and

(*b*) may make an order with respect to costs.

Judge to obey order

(2) A judge found to be in default shall without delay comply with an order made under subsection (1).

Costs

(3) Remedies for the recovery of costs awarded under paragraph (1)(*b*) are the same as for costs in ordinary cases in the same court.

Appendix B – Counting votes at the close of polling day

Introduction

The goal of a judicial recount is to verify the accuracy of the original count through a new tabulation of the votes cast for an electoral district. The procedure for counting ballots on polling day provides necessary context to a judicial recount. Information about the procedure on polling day may also be of relevance to the procedure used by the judge to count the ballots at a recount.

Counting votes at the close of polling day

At the end of polling day, the deputy returning officer shall count the votes cast at his polling station in the presence of the poll clerk and any candidates or representatives who are present or, if no candidates or representatives are present, in the presence of at least two electors. [283(1)]

With the assistance of the poll clerk, and under the scrutiny of candidates or their representatives, the deputy returning officer shall:

- count the number of electors who voted at the polling station
- count the number of spoiled ballots
- count the unused ballots
- open the ballot box, empty the contents onto a table, examine each ballot, show the ballot to each person who is present, and ask the poll clerk to record the name of the candidate for whom the vote was cast
- reject ballots that meet the rejection criteria in the Act [283(3), 284(1)]

1. *Statement of the Vote*

The deputy returning officer shall prepare the *Statement of the Vote* setting out the number of votes in favour of each candidate and the number of rejected ballots. The original statement and a copy of it are placed in separate envelopes. [287(1)]

2. Content of the ballot box

The spoiled ballots, unused ballots, rejected ballots and marked ballots shall also be placed in separate envelopes, and along with the list of electors, a copy of the *Statement of the Vote* and any other election material, shall be placed in the ballot box. The deputy returning officer shall then seal the ballot box. [288]

Without delay after sealing the ballot box, the deputy returning officer will forward the ballot box and other election documents to the returning officer for validation of the results. [290]

3. Validation of the results

The returning officer oversees all polling stations within his electoral district. After the returning officer receives all the ballot boxes from every polling station, the returning officer shall proceed to validate the result using the original *Statements of the Vote* and the results of the count of special ballots that were counted at the Office of the Chief Electoral Officer. [293]

The returning officer verifies and records the number of votes cast for each candidate, the total number of valid votes cast, the number of rejected votes, and the total number of votes cast. [293(1), RO Manual] The validation process does not involve counting the ballots a second time. [295(3)]

4. Result of voting

The returning officer shall prepare a certificate (the *Result of Voting* form) setting out the number of votes cast for each candidate, and forward the original to the Chief Electoral Officer and a copy of it to each candidate or his or her representative. [297] No earlier than six days following the validation of the results, the returning officer shall declare elected the candidate who obtained the largest number of votes by completing the return of the writ and forwarding the writ of election to the Chief Electoral Officer. [313(1), 314(1)]

Counting votes cast by special ballot

A special ballot is cast differently than normal ballots cast at a polling station on polling day or at the advance polls.

An elector who votes by special ballot shall:

a) write the name of the candidate of his or her choice on the ballot

b) place the ballot in an envelope (the "inner envelope") and seal it

c) place the inner envelope into another envelope (the "outer envelope")

d) sign the declaration on the outer envelope

e) seal the outer envelope [212, 213, 227(2), 238, 257(1), 258(1)]

1. Counting special ballots at the office of the returning officer

An elector who votes by special ballot in his or her electoral district must ensure that the ballot is received at the office of the returning officer before the close of the polling stations on polling day. [239(2)(*a*)]

A deputy returning officer and a poll clerk shall be appointed by the returning officer to count the special ballots issued to electors in his or her electoral district and received in his or her office. [273(1)] The returning officer shall notify the candidates of the time and place of the verification, and the candidates and their representatives may be present for the verification of the outer envelopes and the counting of the ballots. [274, 276(2)]

At the time fixed by the Chief Electoral Officer, a deputy returning officer and a poll clerk shall:

- verify the outer envelopes by determining from the information on the outer envelope whether the elector is entitled to vote in the electoral district [276(1)]
- set aside every outer envelope unopened that falls within the criteria for spoiled envelopes under the Act and place them in the envelope for spoiled ballots [277(1), Elections Canada Manual EC 78700]
- count all valid outer envelopes [278(1)]
- open the valid outer envelopes and place the inner envelopes into a ballot box [278(2)]

After the close of polling stations, the deputy returning officer shall:

- open the ballot box and together with the poll clerk open the inner envelopes and count the votes [278(3)]
- reject ballots that meet the rejection criteria under the Act [279]

2. Counting special ballots at the Office of the Chief Electoral Officer

An elector who votes by special ballot outside his or her electoral district must ensure that the ballot is received at the office of the special voting rules administrator in Ottawa no later than 6:00 p.m. on polling day. [239(2)(*b*)]

The counting of the special ballots shall be conducted by a pair of special ballot officers under the supervision of the special voting rules administrator. [264(1)]

The counting of special ballots at the Office of the Chief Electoral Officer shall commence on a date to be fixed by the Chief Electoral Officer, or if no date is fixed, on Wednesday, the fifth day before polling day. [266]

The special ballot officers shall set aside every outer envelope unopened that meets the criteria for spoiled envelopes under the Act. [267(1), (2)]

The special ballot officers shall, on examining a special ballot, reject it if it meets the rejection criteria under the Act. [269].

The special ballot officers shall prepare a *Statement of the Vote* and deliver it to the special voting rules administrator. [270(1)]

Without delay after the counting of the votes for every electoral district has been completed, the special voting rules administrator shall:

- inform the Chief Electoral Officer of
  - the number of votes counted for each candidate for each electoral district
  - the total number of votes counted for each electoral district
  - the number of rejected ballots for each electoral district [271]
- send to the Chief Electoral Officer in separate envelopes:
  - the list of electors
  - all other documents and election materials received from commanding officers, deputy returning officers and special ballot officers
  - the oaths of office
  - the complete files of correspondence, reports and records in his or her possession [272]

3. The results of votes cast by special ballot

- Communication to returning officers

The Chief Electoral Officer shall, without delay after the closing of polling stations at an election, inform each returning officer of the results, for their electoral district, of the special ballots cast at the office of the Chief Electoral Officer. [280(1)]

- Release of information by returning officers

When the returning officer receives information from the Chief Electoral Officer respecting the results of the special ballots counted at the Office of the Chief Electoral Officer, the returning officer shall add those results to the results of the special ballots counted at the office of the returning officer and release them as being the results of the vote under the special voting rules. [280(2)]

Appendix C – Forms for use at a judicial recount

Notice of an application by the returning officer for a judicial recount
(Form 1)

Avis d'une demande par le directeur du scrutin pour un dépouillement judiciaire
(Formulaire 1)

Whereas I, the returning officer for the electoral district of:

Attendu que je soussigné(e), le directeur du scrutin de la circonscription de :

Electoral district / Circonscription

have validated the results of the votes cast at the 39th General Election;

ai validé les votes exprimés à la 39e élection générale;

Whereas I have established that the difference between the number of votes cast for the candidate with the most votes, and the number cast for any other candidate is less than 1/1000th of the votes cast, and

attendu que j'ai constaté que le nombre de votes séparant le candidat qui a reçu le plus grand nombre de votes de tout autre candidat est inférieur à un millième des votes exprimés;

Whereas I [have made / will make] an application to a judge of a designated court for a judicial recount pursuant to subsection 300(1) of the *Canada Elections Act* on

attendu que [j'ai présenté / je présenterai] à un juge habilité une requête en dépouillement judiciaire conformément au paragraphe 300(1) de la *Loi électorale du Canada* le

Date

Therefore, I hereby give you notice of this application as required by subsection 300(2) of the *Canada Elections Act*.

Par conséquent, je vous donne par la présente avis de cette requête, conformément au paragraphe 300(2) de la *Loi électorale du Canada*.

Further information about judicial recounts may be found at sections 299 to 312 and paragraph 406(*c*) of the *Canada Elections Act*.

Pour plus d'information sur les dépouillements judiciaires, consultez les articles 299 à 312 et l'alinéa 406*c*) de la *Loi électorale du Canada*.

The *Judicial Recounts* handbook is available on the Elections Canada website (www.elections.ca).

Le manuel *Dépouillements judiciaires* se trouve sur le site Web d'Élections Canada (www.elections.ca)

_____
Returning officer / Directeur du scrutin

Date:_____

[*Court name and judicial district*]

[*Style of cause*]

Notice of a judicial recount
(Form 2)

Notice is hereby given that, pursuant to the *Canada Elections Act,* S.C. 2000, c. 9, a judicial recount of the ballots cast in the electoral district of:

[Nom du tribunal et district judiciaire]

[*Intitulé*]

Avis d'un dépouillement judiciaire
(Formulaire 2)

Avis est par la présente donné, conformément à la *Loi électorale du Canada,* L.C. 2000, ch. 9, qu'un dépouillement judiciaire des votes exprimés dans la circonscription de :

Electoral district / Circonscription

in the 39th General Election will be held commencing on:

at:

before the honourable Mr. / Madam Justice

à la 39e élection générale sera tenu à compter du :

au :

devant l'honorable juge

Each of the candidates in the election shall be entitled to be present and have up to representatives in attendance to scrutinize the count. Each of the candidates in the election shall also be entitled to have up to legal counsel present during the recount.

Chacun des candidats à l'élection a le droit d'assister au dépouillement et de s'y faire représenter par au plus observateurs. Chacun des candidats a également le droit d'être représenté au dépouillement par au plus avocats.

I direct that this Notice may be served personally on the candidates or their official agents or if that is not possible, substitutionally, by delivering a copy of this Notice to the address for the candidate as noticed in the records of the returning officer for this electoral district.

Je demande que le présent avis soit remis en personne aux candidats ou à leur agent officiel, ou, si c'est impossible, qu'il soit envoyé par la poste à l'adresse de chaque candidat, telle qu'elle est consignée dans les dossiers du directeur du scrutin de la circonscription susmentionnée.

_____

[*Judge*]

Date:_____

Statement of the Vote (EC 50100)
(Form 3)

EC 50100
(03/00)

Elections Canada

Statement of the Vote

TO BE COMPLETED BY THE DEPUTY RETURNING OFFICER AFTER THE COUNTING OF THE BALLOT PAPERS

Relevé du scrutin

QUE DOIT REMPLIR LE SCRUTATEUR APRÈS LE DÉPOUILLEMENT DES BULLETINS DE VOTE

Electoral District / Circonscription	Date of Election / Date de l'élection	☐ Ordinary Poll / Bureau ordinaire ▶ NO. / N°	☐ Advance Poll / B.V.A. ▶ NO. / N°

BALLOT PAPERS COUNTED FOR CANDIDATES
BULLETINS DE VOTE COMPTÉS EN FAVEUR DES CANDIDATS

VALID VOTES CAST / VOTES VALIDES DÉPOSÉS — TOTAL	2
REJECTED BALLOTS / BULLETINS REJETÉS	3
VOTES CAST / VOTES DÉPOSÉS — 2 + 3 = TOTAL	4

NUMBER OF ELECTORS WHO VOTED / NOMBRE D'ÉLECTEURS QUI ONT VOTÉ	1
These two amounts must be equal / Ces deux montants doivent être égaux	
VOTES CAST (FROM BOX 4) / VOTES DÉPOSÉS (DE LA CASE 4)	5
SPOILED BALLOTS (not deposited in ballot box) / BULLETINS ANNULÉS (non déposés dans l'urne)	6
UNUSED BALLOTS / BULLETINS INUTILISÉS	7
5 + 6 + 7 = TOTAL	8
These two amounts must be equal / Ces deux montants doivent être égaux	
BALLOTS RECEIVED FROM RETURNING OFFICER / BULLETINS REÇUS DU DIRECTEUR DU SCRUTIN	9
NUMBERED / NUMÉROTÉS — FROM / DE — TO / À	
IN / EN — BOOK(S) / CARNET(S)	
10 SEAL NO. USED AT CLOSING / N° DU SCEAU UTILISÉ À LA FERMETURE	

CERTIFIED CORRECT / CERTIFIÉ CONFORME

DEPUTY RETURNING OFFICER / SCRUTATEUR

POLL CLERK / GREFFIER DU SCRUTIN

CANDIDATES' REPRESENTATIVES / REPRÉSENTANTS DES CANDIDATS

SIGNATURE | SIGNATURE | SIGNATURE

SIGNATURE | SIGNATURE | SIGNATURE

DISTRIBUTION ▶ WHITE - ENVELOPE EC 50370 / BLANCHE - ENVELOPPE EC 50370 — YELLOW - ENVELOPE EC 50380 / JAUNE - ENVELOPPE EC 50380

Tally Sheet
(Form 4)

Elections Canada

TALLY SHEET

For use of those persons authorized to be in attendance at the counting of the votes cast. A cross or check mark of any kind is made in the appropriate column square as each vote for a candidate is called out by the deputy returning officer.

CANDIDATE - CANDIDAT		CANDIDATE - CANDIDAT		CANDIDATE - CANDIDAT		CANDIDATE - CANDIDAT		CANDIDATE - CANDIDAT		CANDIDATE - CANDIDAT	
	5		5		5		5		5		5
	10		10		10		10		10		10
	15		15		15		15		15		15
	20		20		20		20		20		20
	25		25		25		25		25		25
	30		30		30		30		30		30
	35		35		35		35		35		35
	40		40		40		40		40		40
	45		45		45		45		45		45
	50		50		50		50		50		50
	55		55		55		55		55		55
	60		60		60		60		60		60
	65		65		65		65		65		65
	70		70		70		70		70		70
	75		75		75		75		75		75
	80		80		80		80		80		80
	85		85		85		85		85		85
	90		90		90		90		90		90
	95		95		95		95		95		95
	100		100		100		100		100		100
	105		105		105		105		105		105
	110		110		110		110		110		110
	115		115		115		115		115		115
	120		120		120		120		120		120
	125		125		125		125		125		125
	130		130		130		130		130		130
	135		135		135		135		135		135
	140		140		140		140		140		140
	145		145		145		145		145		145
	150		150		150		150		150		150
	155		155		155		155		155		155
	160		160		160		160		160		160
	165		165		165		165		165		165
	170		170		170		170		170		170
	175		175		175		175		175		175
	180		180		180		180		180		180
	185		185		185		185		185		185
	190		190		190		190		190		190
	195		195		195		195		195		195
	200		200		200		200		200		200
	205		205		205		205		205		205
	210		210		210		210		210		210
	215		215		215		215		215		215
	220		220		220		220		220		220
	225		225		225		225		225		225
	230		230		230		230		230		230
	235		235		235		235		235		235
	240		240		240		240		240		240
	245		245		245		245		245		245
	250		250		250		250		250		250

Tally Sheet
(Form 4)
page 2

/ FEUILLE DE DÉCOMPTE

EC 50090
(03/01)

À l'usage des personnes présentes lors du dépouillement du scrutin. On fait une croix ou une marque quelconque dans les petits carrés sous le nom du candidat dans la colonne appropriée, au fur et à mesure que chaque vote est divulgué par le scrutateur.

	CANDIDATE - CANDIDAT						CANDIDATE - CANDIDAT						CANDIDATE - CANDIDAT						CANDIDATE - CANDIDAT						CANDIDATE - CANDIDAT					
5						5						5						5						5						5
10						10						10						10						10						10
15						15						15						15						15						15
20						20						20						20						20						20
25						25						25						25						25						25
30						30						30						30						30						30
35						35						35						35						35						35
40						40						40						40						40						40
45						45						45						45						45						45
50						50						50						50						50						50
55						55						55						55						55						55
60						60						60						60						60						60
65						65						65						65						65						65
70						70						70						70						70						70
75						75						75						75						75						75
80						80						80						80						80						80
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95						95						95						95						95						95
100						100						100						100						100						100
105						105						105						105						105						105
110						110						110						110						110						110
115						115						115						115						115						115
120						120						120						120						120						120
125						125						125						125						125						125
130						130						130						130						130						130
135						135						135						135						135						135
140						140						140						140						140						140
145						145						145						145						145						145
150						150						150						150						150						150
155						155						155						155						155						155
160						160						160						160						160						160
165						165						165						165						165						165
170						170						170						170						170						170
175						175						175						175						175						175
180						180						180						180						180						180
185						185						185						185						185						185
190						190						190						190						190						190
195						195						195						195						195						195
200						200						200						200						200						200
205						205						205						205						205						205
210						210						210						210						210						210
215						215						215						215						215						215
220						220						220						220						220						220
225						225						225						225						225						225
230						230						230						230						230						230
235						235						235						235						235						235
240						240						240						240						240						240
245						245						245						245						245						245
250						250						250						250						250						250

Elections Canada

POLLING STATION RECOUNT REPORT
(Form 5)

RAPPORT DU BUREAU DE SCRUTIN À UN DÉPOUILLEMENT JUDICIAIRE
(Formulaire 5)

Electoral district / Circonscription	Date of recount / Date de dépouillement	☐ Polling station #: Bureau de scrutin #: ☐ Special ballots / Bulletins de vote spécial

Ballot papers counted for candidates / Bulletins de vote comptés en faveur des candidats

Candidates/Candidats	Votes

Candidates/Candidats	Votes

Valid votes cast Votes valides déposés	

Rejected ballots Bulletins rejetés	

Total votes cast Total des votes déposés	

Other ballots (if counted) / Autres bulletins (si comptés)

Spoiled ballots Bulletins annulés		Unused ballots Bulletins inutilisés	

Certified correct / Certifié conforme

_____ _____

Result of Voting
(Form 6)

Elections Canada

RESULT OF VOTING RÉSULTAT DU SCRUTIN

EC 10420
(03/00)

ELECTORAL DISTRICT / CIRCONSCRIPTION	DATE OF ELECTION DATE DU SCRUTIN

BALLOT PAPERS COUNTED / BULLETINS DE VOTES DÉPOUILLÉS

FOR / EN FAVEUR DE	NUMBER / NOMBRE
TOTAL NUMBER OF VALID VOTES CAST / NOMBRE TOTAL DE VOTES VALIDES DÉPOSÉS	
REJECTED BALLOT PAPERS / BULLETINS DE VOTE REJETÉS	
TOTAL NUMBER OF VOTES CAST / NOMBRE TOTAL DE VOTES DÉPOSÉS	

CERTIFICATE OF RETURNING OFFICER

I certify that the results of the validation of the results at this electoral event are as stated above.

The returns from all polling stations have been placed in sealed boxes, as indicated on the back of this form.

CERTIFICAT DU DIRECTEUR DU SCRUTIN

Je certifie que la validation des résultats à ce scrutin a apporté les résultats énoncés ci-dessus.

J'ai placé les retours de tous les bureaux de scrutin dans des boîtes scellées tel qu'indiqué à l'endos de ce formulaire.

DATE

RETURNING OFFICER / DIRECTEUR DU SCRUTIN

(Continued on next page) (Suite au verso)

DISTRIBUTION: 1 - To each candidate / À chaque candidat
2 - To the Chief Electoral Officer / Au directeur général des élections
3 - To the Returning Officer's file / Au dossier du directeur du scrutin

Result of Voting
(Form 6)
page 2

(Continued / Suite)

ELECTORAL DISTRICT / CIRCONSCRIPTION

SERIAL NUMBERS OF SEALS USED BY RETURNING OFFICER
NUMÉROS DE SÉRIE DES SCEAUX UTILISÉS PAR LE DIRECTEUR DU SCRUTIN

OR/OU

NUMBER OF BOXES
NOMBRE DE BOÎTES

☐ INDICATE / COCHER (✓) IF JUDICIAL RECOUNT APPLIED FOR
SI UNE DEMANDE DE DÉPOUILLEMENT JUDICIAIRE A ÉTÉ PRÉSENTÉE

I further certify that the number of votes separating the candidate with the highest number of votes and any other candidate being less than 1/1000th of the votes cast, as prescribed by the *Canada Elections Act*, I have applied for a judicial recount.

Je certifie de plus que le nombre de votes séparant le candidat qui a obtenu le plus grand nombre de voix de tout autre candidat étant inférieur à un millième des votes déposés, j'ai fait une demande de dépouillement judiciaire conformément à la *Loi électorale du Canada*.

NAME OF JUDGE
NOM DU JUGE

DATE

RETURNING OFFICER / DIRECTEUR DU SCRUTIN

CERTIFICATE OF JUDGE ON JUDICIAL RECOUNT

I hereby certify that the results of a recount I held of the votes obtained by each candidate of the said electoral event and the number of rejected ballot papers are as set out overleaf.

CERTIFICAT DU JUGE APRÈS UN DÉPOUILLEMENT JUDICIAIRE

Je certifie par la présente qu'à la suite du dépouillement judiciaire que j'ai présidé, le résultat des votes obtenus par chaque candidat et des bulletins rejetés à ce scrutin est tel qu'énoncé au recto.

AT
À

DATE

SIGNATURE OF JUDGE
SIGNATURE DU JUGE

After the judicial recount, the judge will transmit one copy to each candidate and one copy to the returning officer.

Après le dépouillement judiciaire, le juge devra transmettre une copie à chacun des candidats et au directeur du scrutin.

Return of the Writ
(Form 7)

RETURN OF THE WRIT

CANADA

RAPPORT D'ÉLECTION

ELECTORAL DISTRICT / CIRCONSCRIPTION

I, the undersigned, returning officer for the electoral district for which this writ was issued, hereby certify that:

Je, soussigné, directeur du scrutin pour la circonscription mentionnée dans ce bref, certifie par la présente que :

The candidate who has received the largest number of votes cast and who has been duly elected therefor is: ☐

Le candidat ayant reçu le plus grand nombre des votes déposés et étant dûment déclaré élu pour cette circonscription est :

or

ou

The candidate duly elected by acclamation is: ☐

Le candidat élu par acclamation est :

* NAME / NOM	OCCUPATION / PROFESSION
POLITICAL AFFILIATION / APPARTENANCE POLITIQUE	
ADDRESS / ADRESSE	

or

ou

The election resulted in an equality of votes between the candidates with the largest number of votes. ☐

Le résultat de l'élection est un partage des voix entre les candidats ayant obtenu le plus grand nombre de votes.

DATE

RETURNING OFFICER / DIRECTEUR DU SCRUTIN

*** As stated in nomination paper / Tel qu'il apparaît dans l'acte de candidature**

Elections Canada

TIME SHEET (RECOUNT) (Form 8)

FEUILLE DE TEMPS (DÉPOUILLEMENT JUDICIAIRE) (Formulaire 8)

Electoral District / Circonscription	Date(s) of recount / Date(s) du dépouillement

Claimant / Réclamant		S.I.N. / N.A.S.
Address / Adresse		
City / Ville	Province / Terr.	Postal code / Code postal

FEES / HONORAIRES

Dates	Hours worked Heures travaillées	Hourly rate Taux horaire	Number of hours Nombre d'heures	**Total**
		Total:		

Claimant's signature / Signature du réclamant	Returning officer's signature Signature du directeur du scrutin

Signature of the judge / Signature du juge

Elections Canada

APPLICATION FOR REIMBURSEMENT OF COSTS AT A JUDICIAL RECOUNT
(Form 9)

DEMANDE DE REMBOURSEMENT DE FRAIS À UN DÉPOUILLEMENT JUDICIAIRE
(Formulaire 9)

Electoral district / Circonscription	Date(s) of recount / Date(s) du dépouillement

After a recount, a candidate may make an application to the Chief Electoral Officer for the reimbursement of his or her costs in respect of the recount, setting out the amount and nature of the costs and whether they were actually and reasonably incurred.

À l'issue d'un dépouillement judiciaire, tout candidat peut présenter au directeur général des élections une demande de remboursement de ses frais réels et entraînés par le dépouillement judiciaire; la demande doit indiquer le montant et la nature des frais.

Name of candidate / Nom du candidat

Nature of costs / Nature des frais	Amount / Montant
TOTAL:	

I, the abovementioned candidate, certify that the costs enumerated above were all in respect of the recount, were all actually and reasonably incurred, and that the attached receipts support these costs.

Je soussigné(e), candidat(e), atteste que les frais indiqués ci-dessous ont été entraînés par le dépouillement et qu'ils sont réels et raisonnables, comme le montrent les reçus ci-joints.

_____
Candidate / Candidat

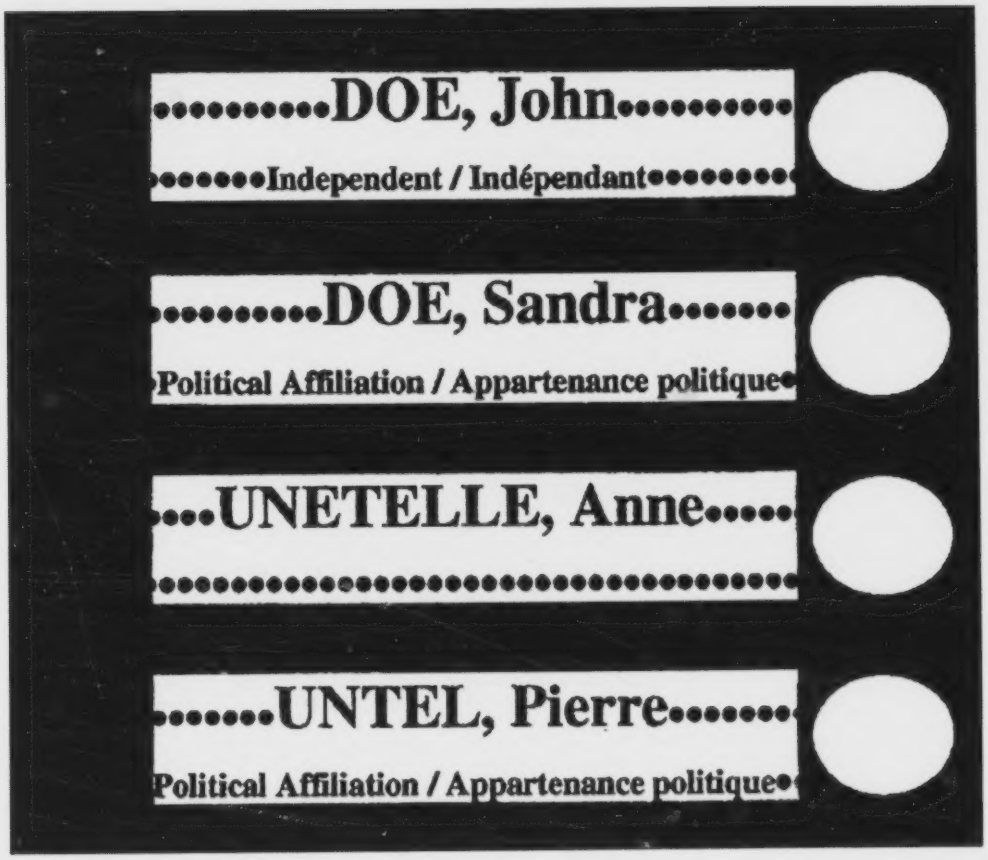
Please attach original receipts supporting that the costs enumerated above were actually and reasonably incurred in respect of the recount.

Veuillez joindre à la présente les reçus originaux qui attestent que les frais indiqués ci-dessus sont réels et ont été entraînés par le dépouillement.

On receipt of this application, the Chief Electoral Officer shall determine the costs and request that the Receiver General reimburse the candidate's costs up to a maximum of $500 for each day or part of a day during which the judge conducted the recount.

Dès réception de la demande, le directeur général des élections établit le montant des frais et demande au receveur général un paiement pour ce montant, jusqu'à concurrence de 500 $ par jour ou partie de jour qu'a duré le dépouillement judiciaire.

Form of Ballots
(Form 10)



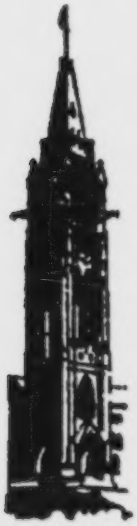
. . . . . .

(Line of perforations)

Nº 1002

. . . . . .

(Ligne de perforations)



CANADA

SPACE FOR INITIALS OF D.R.O.

INITIALES DU SCRUTATEUR

GENERAL ELECTION
ELECTORAL DISTRICT OF

(year / année)

ÉLECTION GÉNÉRALE
CIRCONSCRIPTION DE

_____

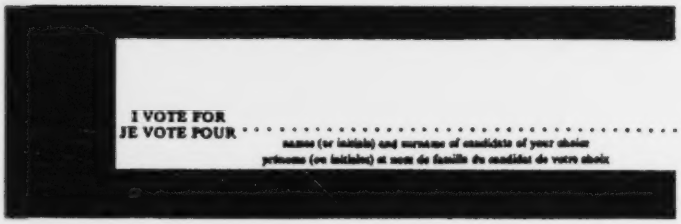
POLLING DAY / JOUR DU SCRUTIN

(date)

Printed by: Imprimé par :

(name and address of printer / nom et adresse de l'imprimeur)

Form of Special Ballot
(Form 11)



Back of ballot paper *Verso du bulletin de vote*

OFFICIAL SPECIAL BALLOT PAPER

BULLETIN DE VOTE SPÉCIAL OFFICIEL

SUPPLIED BY THE CHIEF ELECTORAL OFFICER

FOURNI PAR LE DIRECTEUR GÉNÉRAL DES ÉLECTIONS

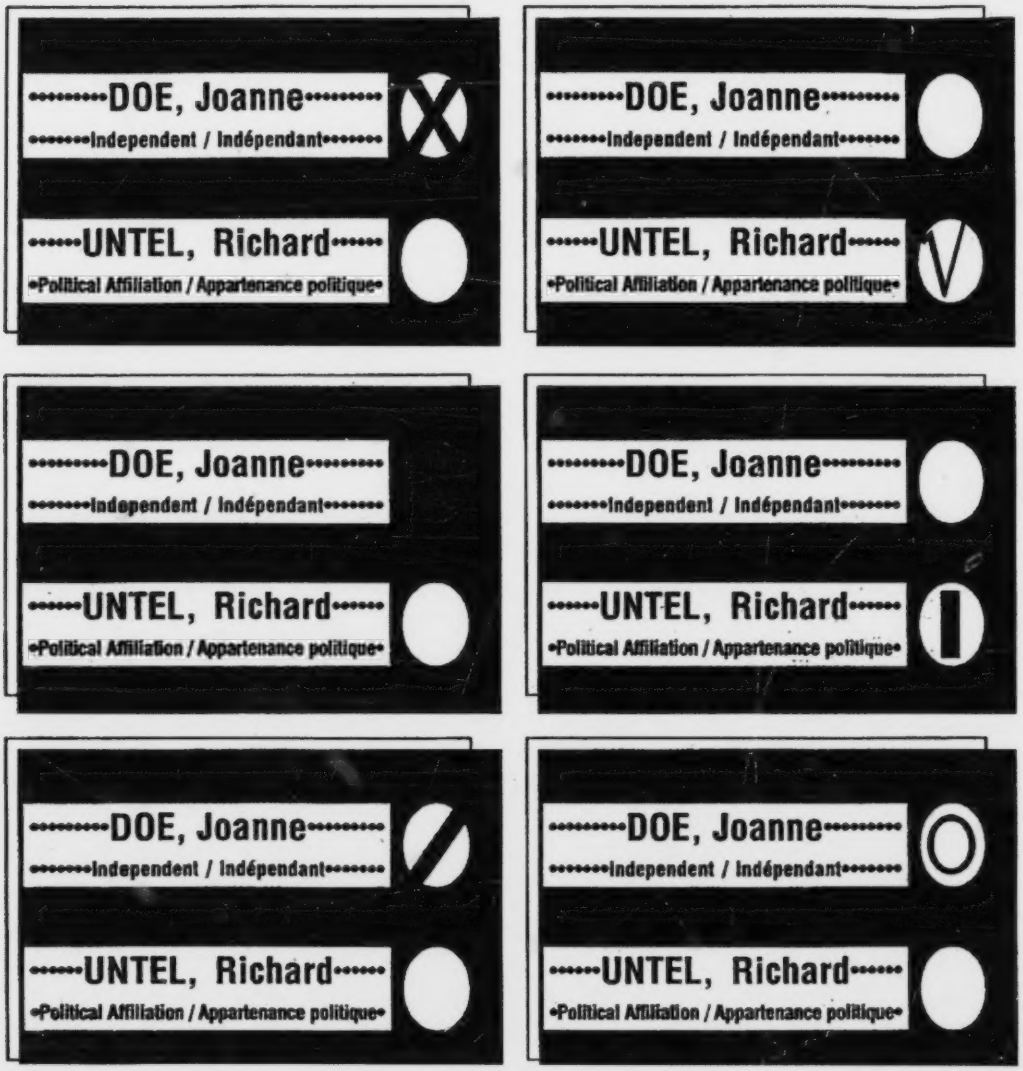
CANADA

Supplied by the Chief Electoral Officer, pursuant to Part 11 of the *Canada Elections Act*.

Fourni par le directeur général des élections, conformément à la partie 11 de la *Loi électorale du Canada*.

Appendix D – Sample of marked ballot papers that should be accepted and rejected

Samples of Marked Ballot Papers which Should be Accepted and Counted



Samples of Market Ballot Papers which Should be Rejected